

REMARKS/ARGUMENTS

Claims 1-5, 7-15, 17-25 and 27-30 are pending in the present application. Claims 7, 8, 17, 18, 27 and 28 have been amended herewith. No new matter has been added by any of the amendments. Reconsideration of the claims is respectfully requested.

I. 35 U.S.C. § 103, Obviousness

The Examiner rejected Claims 1-3, 11-13 and 21-23 under 35 U.S.C. § 103 as being unpatentable over Brimli et al. (US Patent No. 6,480,500), of record, in view of Applicant's Admitted Prior Art. This rejection is respectfully traversed.

Generally speaking, the present invention is directed to a technique for avoiding time-wait state delays that are experienced when tearing down a SAN connection, by using virtual queue-pairs in lieu of physical queue pairs when setting the time-wait state required for such connection tear down. Claim 1 is specifically directed to a method of establishing a connection between a first node and a second node in a system area network. A virtual connection unit pair is allocated to the connection, the virtual connection unit pair being associated with the first node. The virtual connection unit pair is associated with a physical connection unit pair that is used for transporting data using the connection, the physical connection unit pair being associated with the first node. A connection is established between the virtual connection unit pair of the first node and a connection unit pair of the second node. One or more messages are transmitted between the first node and the second node over the connection using the virtual connection unit pair. The connection between the first node and the second node is torn down, where tearing down the connection includes placing the virtual connection unit pair in a time-wait state. In rejecting this 'tearing down' step of Claim 1, the Examiner cites Applicants' own patent specification at page 2, line 27 – page 3, line 9 as being an admission that tearing down a connection includes placing a connection unit pair in a time-wait state is prior art. Applicants urge error in such assertion, as will now be shown in detail.

First, the discussion at pages 2-3 is not valid 35 USC 103 prior art (as further described below), and even assuming arguendo that it is, such description is with respect to *physical* queue pairs. This passage specifically states:

"When connections are established between nodes in a SAN fabric, *physical* queue pairs of channel adapters are typically used to facilitate the connection. When these connections are torn down, the *physical* queue pairs are placed in a time-wait state in order to make sure that all data packets in the SAN fabric at the time the connection is

torn down, have time to be routed to their destination. During this time-wait state, the *physical* queue pairs cannot be used to establish new connections with the same or other nodes." (emphasis added)

As can be seen, every single reference to queue pairs in this cited passage is with respect to *physical* queue pairs. While Claim 1 is directed to tearing down a connection, the details of such tearing down are different between what is claimed and what is being cited as admitted prior art. The alleged admitted prior art is directed to placing *physical queue pairs* in a time-wait state. In contrast, Claim 1 is different in that as a part of tearing down the connection, a *virtual connection unit pair* is placed in a time-wait state. A physical queue pair is different from a virtual connection unit pair, and an alleged teaching of one (physical queue pair) does not establish any teaching/suggestion with respect to the other (virtual connection unit pair). To establish prima facie obviousness of a claimed invention, all of the claim limitations must be taught or suggested by the prior art. MPEP 2143.03. *See also, In re Royka*, 490 F.2d 580 (C.C.P.A. 1974) (emphasis added). Because none of the cited references teach or suggest placing a virtual connection unit pair in a time-wait state as a part of tearing down an inter-node connection, a prima facie case of obviousness has not been established as all the claimed features are not taught or suggested by the cited art. Therefore, as a proper prima facie case of obviousness has not been established, Claim 1 has been erroneously rejected under 35 USC 103¹.

As to the allegation that Applicants' own patent specification is admitted prior art, Applicants urge that such information is specifically excluded as prior art pursuant to 35 USC 103(c), as the present invention was filed after November 29, 1999 and thus is subject to the American Inventors Protection Act of 1999 which expressly precludes use of Applicants' own related work as being used in a 35 USC 103 rejection. Thus, Claim 1 is further shown to have been erroneously rejected using the so-called Admitted Prior Art, as such art is expressly excluded pursuant to 35 USC 103(c) and Applicants background section was commonly owned by Applicants (i.e. commonly owned by the same person).

With respect to Claims 2 and 3, Applicants traverse for reasons given above with respect to Claim 1 (of which Claims 2 and 3 depend upon).

Applicants traverse the rejection of Claims 11-13 and 21-23 for similar reasons to those given above with respect to Claim 1.

Therefore, the rejection of Claims 1-3, 11-13 and 21-23 under 35 U.S.C. § 103 has been overcome.

¹ If the examiner fails to establish a prima facie case, the rejection is improper and will be overturned. *In re Fine*, 837 F.2d 1071, 1074, 5 USPQ2d 1596, 1598 (Fed. Cir. 1988).

II. 35 U.S.C. § 103, Obviousness

The Examiner rejected Claims 5, 10, 15, 20, 25 and 30 under 35 U.S.C. § 103 as being unpatentable over Erimli et al. (US Patent No. 6,480,500), of record, in view of Applicant's Admitted Prior Art as applied to claims 1, 11, and 21 above, and in further view of Khalidi et al. (US Patent No. 6,405,237). This rejection is respectfully traversed.

Applicants traverse such rejection for similar reasons to those given above with respect to Claim 1.

Therefore, the rejection of Claims 5, 10, 15, 20, 25 and 30 under 35 U.S.C. § 103 has been overcome.

III. 35 U.S.C. § 103, Obviousness

The Examiner rejected Claims 9, 19 and 29 under 35 U.S.C. § 103 as being unpatentable over Erimli et al. (US Patent No. 6,480,500), of record, in view of Applicant's Admitted Prior Art as applied to claims 1, 11, and 21 above, and in further view of Bailey et al. (US Patent No. 6,832,310). This rejection is respectfully traversed.

Applicants traverse such rejection for similar reasons to those given above with respect to Claim 1.

Therefore, the rejection of Claims 9, 19 and 29 under 35 U.S.C. § 103 has been overcome.

IV. Allowed Claims

Applicants graciously acknowledge the allowance of Claims 4, 14 and 24.

V. Objection to Claims

The Examiner stated that Claims 7, 8, 17, 18, 27 and 28 were objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. In response, the claims have been rewritten accordingly to overcome this objection. It is thus urged that these Claims 7, 8, 17, 18, 27 and 28 are allowable.

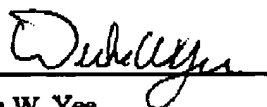
BEST AVAILABLE COPY

VI. Conclusion

It is respectfully urged that the subject application is patentable over the cited references and is now in condition for allowance. The Examiner is invited to call the undersigned at the below-listed telephone number if in the opinion of the Examiner such a telephone conference would expedite or aid the prosecution and examination of this application.

DATE: March 28, 2006

Respectfully submitted,



Duke W. Yee
Reg. No. 34,285
Wayne P. Bailey
Reg. No. 34,289
Yee & Associates, P.C.
P.O. Box 802333
Dallas, TX 75380
(972) 385-8777
Attorneys for Applicants